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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2657

Introduced by Assembly Member Nunez

February 20, 2004

An act to add Chapter 2 (commencing with Section 42100) to Part 3 of Division 30 of the Public Resources Code, relating to metal plating facilities, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2657, as amended, Nunez. Metal plating facilities.

~~The~~

(1) *The* California Integrated Waste Management Act of 1989 establishes a comprehensive program implemented by the California Integrated Waste Management Board and local agencies to reduce, recycle, and reuse solid waste in an efficient and cost effective manner.

This bill would require the California Environmental Protection Agency to establish and coordinate an interagency Metal Plating Task Force, as specified. The bill would require the agency, in consultation with the task force, to take specified actions with respect to the regulation of the metal plating industry, as prescribed. The bill would

require the agency to establish a loan program or a loan guarantee program, or both, for chrome plating facilities, as specified. The bill would create the Chromium Pollution Prevention Fund in the State Treasury, and would require that the money in the fund be expended by the agency, upon appropriation by the Legislature, to support the task force's activities, and make specified loans and loan guarantees. The bill would require the agency to make loans or loan guarantees available only to a generator that is a small business that owns or operates a chrome plating facility that is subject to a specified rule of the South Coast Air Quality Management District or a comparable rule in another district. The bill would allow the agency to delegate administration of the loan or loan guarantee program to one of its boards, divisions, or offices, but would require the Secretary for Environmental Protection to approve all projects to be funded before a loan commitment is issued.

The bill would authorize the agency to adopt regulations to implement the bill's requirements and to adopt emergency regulations to implement the loan program and loan guarantee program.

The bill would require the agency, in consultation with the task force, to submit a report to the Legislature by March 31, 2006, and would require the agency, by January 1, 2006, and every even year thereafter, to submit a report to the Legislature concerning the performance of the loan program or loan guarantee program.

(2) Existing law creates, in the State Treasury, the Hazardous Waste Reduction Loan Account, which is continuously appropriated to the former Trade and Commerce Agency to make loans to generators for equipment, projects, or facilities for the reduction of hazardous waste.

This bill would transfer all the funds remaining in the Hazardous Waste Reduction Loan Account on January 1, 2005, to the Chromium Pollution Prevention Fund. The bill would appropriate that amount, therefrom, to the California Environmental Protection Agency for expenditure in accordance with the bill, as specified, thereby making an appropriation.

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 all of the following:

1 (1) Metal plating facilities are establishments primarily
2 engaged in all types of electroplating, plating, anodizing, coloring,
3 and finishing of metals and formed products. Facilities conducting
4 metal plating activities include everything from small,
5 low-volume operations like jewelry repair shops to high-volume
6 production lines.

7 (2) This industry provides significant support to other larger
8 industry segments in the state, particularly manufacturing
9 industries. The automotive, electronics, machine equipment, and
10 defense industry are the four largest industry segments served by
11 metal platers.

12 (3) According to the Department of Toxic Substances Control,
13 there are approximately 875 metal plating facilities in the State of
14 California, 67 percent of which are located in the five county Los
15 Angeles area, the largest concentration of metal platers anywhere
16 in the United States. There are also large numbers of metal platers
17 located in the San Francisco Bay area, San Diego County, and the
18 Central Valley regions of the state.

19 (4) Statistics indicate that 94 percent of the Legislature, 113 of
20 the 120 members, have at least one metal plater in their district, and
21 over one-third of the state's legislative districts house at least 10
22 facilities. Many of these metal platers are small businesses that are
23 located in communities of color.

24 (5) The metal plating process impacts the environment,
25 including air, water, and soil, in a very intensive manner. The
26 process involves the use of various toxic materials, and generates
27 significant amounts of solid and hazardous waste. For example,
28 hexavalent chromium, a chemical compound intrinsic to the
29 chrome plating process, is a known human carcinogen and a potent
30 toxic air contaminant for which the safe threshold exposure level
31 has not yet been established.

32 (6) The metal plating industry is regulated by various federal,
33 state, and local agencies including the United States
34 Environmental Protection Agency, the State Air Resources Board,
35 the State Water Resources Control Board, the Department of Toxic
36 Substances Control, California regional water quality control
37 control boards, local air quality management districts and air
38 pollution control districts, and Certified Unified Program
39 Agencies (CUPAs).

1 (7) The complexity of metal plating operations requires a
2 coordinated regulatory approach. Ongoing efforts of metal plating
3 facilities to comply with environmental laws and regulations are
4 challenged by the number, and, in some cases, the duplicative
5 nature of these requirements.

6 (8) In October 2003, the Los Angeles City Attorney created a
7 Chrome Platers Initiative as part of its Environmental Protection
8 Strike Force, to conduct multiagency inspections of chrome
9 plating facilities and to identify violations. Through the efforts of
10 this multiagency task force, the city attorney has been able to
11 increase enforcement of environmental health and safety
12 regulations in the Los Angeles area.

13 (9) Throughout the state, metal plating facilities are
14 appropriately located on land that has been zoned for these
15 facilities; however, due to changes in neighborhoods and zoning
16 ordinances, many facilities are now located in close proximity to
17 residences and “sensitive receptors.” For example, there are
18 several cases in the Los Angeles area where schools are located
19 within close proximity to metal plating facilities.

20 (10) A complete inventory of metal plating facilities in the
21 state, including locations, proximity to residences and sensitive
22 receptors, and a history of compliance with environmental health
23 and safety laws, does not exist. Additionally, different regulatory
24 agencies cite different numbers and there is no central database for
25 locations or compliance history.

26 (11) The metal plating industry’s limited ability to access
27 capital for environmental improvements and investments has been
28 identified by the United States Environmental Protection Agency
29 as one of its biggest obstacles in meeting and exceeding current
30 environmental requirements.

31 (12) There is also a need to provide training for the metal
32 plating community on new, cleaner technologies and better
33 operating practices, as well as changing regulations.

34 (b) The Legislature hereby further declares that it is in the best
35 interest of the people of California to address the various
36 environmental issues posed by the metal plating industry while
37 preserving its economic vitality. Specifically, funds should be
38 provided to support environmental compliance, pollution
39 prevention, and emission reduction measures.

SEC. 2. Chapter 2 (commencing with Section 42100) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 2. METAL PLATING FACILITIES

42100. For purposes of this chapter, the following definitions apply:

(a) “Agency” means the California Environmental Protection Agency.

(b) “Chrome plating” has the same meaning as “decorative chromium electroplating” as defined in the regulations specifying a hexavalent chromium toxic control measure for chrome plating adopted by the State Air Resources Board and found in Section 93102 of Title 17 of the California Code of Regulations.

(c) “Emission reduction” has the same meaning as “airborne toxic risk reduction measure,” as defined in subdivisions (a) and (b) of Section 44390 of the Health and Safety Code.

(d) “Generator” means a borrower pursuant to this chapter or a party that produces hazardous waste and applies for financial assistance pursuant to this chapter to reduce hazardous waste as generated.

(e) “Metal plating facility” means an establishment primarily engaged in all types of electroplating, plating, anodizing, coloring, and finishing of metals and formed products for the trade.

(f) “Pollution prevention” means the same as source reduction as defined by subdivision (e) of Section 25244.14 of the Health and Safety Code.

(g) “Sensitive receptor” means schools (kindergarten to grade 12, inclusive), licensed day care centers, hospitals, and convalescent homes.

42101. (a) The agency shall establish and coordinate an interagency Metal Plating Task Force. The task force shall build upon the leadership efforts of the existing Los Angeles Chrome Platers Initiative and Environmental Protection Strike Force to develop a comprehensive enforcement, compliance, pollution prevention, and technology assistance approach for the metal plating industry.

(b) The task force shall include representatives from various governmental agencies, including, but not limited to, the State Air Resources Board, State Water Resources Control Board,

1 Department of Toxic Substances Control, the Division of
2 Occupational Safety and Health of the Department of Industrial
3 Relations, State Department of Health Services, California
4 regional water quality control boards, air quality management
5 districts and air pollution control districts, and local Certified
6 Unified Program Agencies (CUPAs). Other agencies, including,
7 but not limited to the United States Environmental Protection
8 Agency, the Los Angeles City Attorney's Office, the Los Angeles
9 City Council, and other interested local governments may
10 participate as appropriate.

11 (c) In implementing this chapter, the task force shall, to the
12 maximum extent possible, work in a collaborative manner with
13 metal plating facilities and associations, environmental and
14 community groups, and other interested parties.

15 42102. The agency, in consultation with the Metal Plating
16 Task Force, shall do all of the following:

17 (a) Compile an inventory of metal plating facilities, using
18 existing databases and resources where feasible, including
19 information on the location of a facility, years in operation, the
20 type of plating, including, chrome, nickel, or aluminum, and
21 compliance history.

22 (b) Facilitate efforts of state and local agencies to increase
23 inspection and enforcement activities at metal plating facilities.
24 This effort shall be consistent with the state's regulatory
25 requirements, including Rule 1469 of the South Coast Air Quality
26 Management District and other relevant regulations adopted by
27 the State Air Resources Board, air quality management districts,
28 and air pollution control districts.

29 (c) Improve coordination of enforcement and inspection
30 among regulatory agencies.

31 (d) (1) Establish a loan or a loan guarantee program, or both
32 programs, for chrome plating facilities subject to Rule 1469 of the
33 South Coast Air Quality Management District, or a comparable
34 rule in other air quality management districts and air pollution
35 control districts, for the purpose of demonstrating the application
36 of high performance environmental control technologies to the
37 metal plating industry, in accordance with Section 42106.

38 (2) In establishing the loan or loan guarantee program pursuant
39 to paragraph (1), the agency shall make every effort to integrate
40 and leverage existing financing mechanisms for this new program,

1 including the Treasurer's California Pollution Control Financing
2 Authority California Capital Access Program (CalCAP), the
3 Business, Transportation and Housing Agency's financial
4 development corporations' loan guarantee programs, and the
5 California Infrastructure and Economic Development Bank
6 (I-Bank)'s Revenue Bond program.

7 (e) Develop, disseminate, and pilot a protocol for onsite audits
8 of facility compliance and pollution prevention activities.

9 (f) Develop training programs and conduct outreach activities.

10 (g) Provide assistance to the State Air Resources Board to
11 adopt regulations for the siting of new chrome plating facilities
12 within the vicinity of residences or sensitive receptors, including
13 appropriate buffer zones to restrict the future siting of new chrome
14 plating facilities within the vicinity of residences or sensitive
15 receptors.

16 (h) Develop recommendations for a long-term approach to
17 address the various environmental issues posed by the metal
18 plating industry, while preserving its economic vitality, including,
19 but not limited to, opportunities for relocation of facilities, closure
20 mitigation strategies, research and development of alternative
21 technologies, creation of a grant program and continuation of loan
22 and other financial assistance programs, assessment of various
23 fees, and mechanisms for financial assurance.

24 (i) On or before March 31, 2006, submit a report to the
25 Legislature. Prior to the release of this report, the agency shall
26 provide opportunity for public and stakeholder review and
27 comment.

28 42103. (a) There is hereby created, in the State Treasury, the
29 Chromium Pollution Prevention Fund, for the purpose of
30 receiving all of the following:

31 (1) Deposits of state, federal, or local government money, and
32 other public or private money for expenditure by the agency for the
33 purposes of this chapter.

34 (2) Repayments of loans or loan guarantees and interest and
35 late fees on those accounts.

36 (b) Notwithstanding Section 16305.7 of the Government Code,
37 all interest or other increments resulting from the investment of the
38 funds in the Chromium Pollution Prevention Fund pursuant to
39 Article 4 (commencing with Section 16470) of Chapter 3 of Part

1 2 of Division 4 of Title 2 of the Government Code shall be
2 deposited in the Chromium Pollution Prevention Fund.

3 (c) All interest accruing on the interest payments from loan
4 applicants or interest earned on the funds in the Chromium
5 Pollution Prevention Fund shall be deposited into the Chromium
6 Pollution Prevention Fund.

7 (d) The money in the Chromium Pollution Prevention Fund
8 shall be expended by the agency, upon appropriation by the
9 Legislature, for the following purposes:

10 (1) To support task force activities.

11 (2) To make loans or loan guarantees pursuant to subdivision
12 (d) of Section 42102.

13 *42105. All funds remaining in the Hazardous Waste Reduction*
14 *Loan Account, as established pursuant to Section 14096 of the*
15 *Corporations Code, on January 1, 2005, are hereby transferred to*
16 *the Chromium Pollution Prevention Fund and appropriated*
17 *therefrom to the agency for expenditure pursuant to subdivision (d)*
18 *of Section 42103.*

19 42106. (a) The agency shall prepare and adopt criteria and
20 procedures for evaluating applications for low interest loans and
21 loan guarantees awarded pursuant to subdivision (d) of Section
22 42102.

23 (b) The agency shall only make a loan or a loan guarantee ~~only~~
24 available to a generator that is a small business that owns or
25 operates a chrome plating facility located in the South Coast Air
26 Quality Management District or in a district with a rule
27 comparable to Rule 1469 of that district.

28 42107. (a) The agency may delegate administration of the
29 loan or loan guarantee program to one of its boards, divisions, or
30 offices. The Secretary for Environmental Protection shall approve
31 all projects to be funded before a loan commitment is issued.

32 (b) On or before January 1, 2006, and every even year
33 thereafter, the agency shall submit a report to the Legislature
34 concerning the performance of the loan or loan guarantee program
35 established by this chapter, including the number and size of loans
36 made, characteristics of loan recipients, and the amount of money
37 spent on administering the program. Copies of the report shall be
38 submitted to the appropriate fiscal and policy committees of the
39 Legislature, and, upon request, to individual Members of the
40 Legislature.

1 42108. The agency may adopt regulations to implement this
2 chapter. The agency may adopt emergency regulations to
3 implement the loan program or loan guarantee program, in
4 accordance with Chapter 3.5 (commencing with Section 11340) of
5 Part 1 of Division 3 of Title 2 of the Government Code, and for the
6 purposes of that chapter, including Section 11346.1 of the
7 Government Code, the adoption of these regulations is an
8 emergency and shall be considered by the Office of Administrative
9 Law as necessary for the immediate preservation of the public
10 peace, health, and safety, and general welfare. Notwithstanding
11 Chapter 3.5 (commencing with Section 11340) of Part 1 of
12 Division 3 of Title 2 of the Government Code, an emergency
13 regulation adopted by the agency pursuant to this section shall be
14 filed with, but not repealed by, the Office of Administrative Law,
15 and shall remain in effect until revised by the agency.

16 42109. The Legislature requests that the University of
17 California assist the agency and the Metal Plating Task Force, as
18 appropriate, which may involve faculty and researcher expertise
19 from campuses and centers throughout the University of
20 California.

